

EXHIBIT LRP 2006-00003:D

ORDINANCE NO. **3172**

AN ORDINANCE AMENDING TITLE 18 OF THE SAN LUIS OBISPO COUNTY CODE, THE PUBLIC FACILITIES FEES ORDINANCE, CHAPTERS 18.04 AND 18.07 BY DELETING ANY REFERENCE OR REQUIREMENTS RELATING TO THE AFFORDABLE HOUSING IN-LIEU FEE FUND OR THE DEFERMENT OF PUBLIC FACILITIES FEES FOR AFFORDABLE HOUSING

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

SECTION 1: Section 18.04.010 of the Public Facilities Fees Ordinance, Title 18 of the San Luis Obispo County Code, is hereby amended by deleting certain text as follows:

**18.04.010 - Fee Payment:**

- a. Prior to the issuance of any building permit, or prior to the granting of any earlier approval for any development project if the collection of the fees at such earlier time is permitted by law, the applicant for the permit or approval shall pay to the County Department of Planning and Building any and all Public Facilities Fees imposed by resolution of the Board of Supervisors. Permits for remodels, additions, or alterations to existing residences that will add additional square footage for residential purposes will be required to pay the fire component of the Public Facilities Fee for the additional square footage. Payment of the fees for affordable housing projects shall be deferred as follows: [~~Amended 2006, Ord. 3085~~]

- (1) ~~The payment of public facilities fees that are assessed to a residential project that is to be developed as a very low- and low-income (less than or equal to 80% of median income) affordable housing project under the terms specified in Title 22 or Title 23 of the County Code (Land Use Ordinance and Coastal Zone Land Use Ordinance, respectively) shall be deferred to such time in the future as there are funds available for payment of those fees from the Affordable Housing In-Lieu Fee Fund as established by Ordinance No. 2527. [Amended 1993, Ord. 2628; 1995, Ord. 2737]~~

SECTION 2: Chapter 18.07 of the Public Facilities Fees Ordinance, Title 18 of the San Luis Obispo County Code, is hereby deleted as follows:

**CHAPTER 7: AFFORDABLE HOUSING IN-LIEU FEES**

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**18.07.010 – Findings**

~~The board of supervisors of the county finds and declares as follows:~~

a. ~~San Luis Obispo County has adopted policies and programs designed to foster an increase in the amount of affordable housing in the unincorporated area of the county. Among these policies and programs are:~~

- ~~(1) The county has adopted the provisions of Chapter 4 of the county housing element of the county's general plan.~~
- ~~(2) The county has exempted low and moderate income households from the county's growth management ordinance.~~
- ~~(3) The county provides Federal Section 8 rental assistance to very low income households by means of contracts with the housing authority of the city of San Luis Obispo.~~
- ~~(4) The county obtains funds for rehabilitating existing housing and for long-term financing of housing for low income households by means of competitive applications to the Community Development Block Grant Program.~~
- ~~(5) The county obtains funds needed by low income households to facilitate conversion of mobilehome parks to resident ownership through county participation in the state Mobilehome Park Resident Ownership Program.~~
- ~~(6) The county also promotes affordable rental housing by allowing mixtures of commercial and residential development in the same development project.~~
- ~~(7) Government Code Section 65915 requires a twenty-five percent density bonus plus additional incentives of financial value for housing developments with twenty percent low income units, ten percent for very low income, or fifty percent for senior citizens. The county offers a thirty-five percent density bonus for housing developments providing ten percent of their units for very low income, twenty percent for low income, thirty percent for moderate income, or fifty percent for senior citizens' households.~~
- ~~(8) In the coastal zone, for housing developments of eleven or more units, the county requires fifteen percent of the units to be affordable and reserved for moderate income households.~~
- ~~(9) Secondary dwellings are permitted in areas where they can be supported by community resources and facilities.~~
- ~~(10) Sufficient land is designated (zoned) residential single-family and residential multi-family to meet the county share of regional housing needs shown in the regional housing needs plan.~~

b. ~~The effect of the foregoing programs and policies has been that in recent years affordable housing has comprised approximately three and one-half percent of the new residential development projects in the county.~~

c. ~~The recent establishment by the county of development impact fees on new residential development projects will increase the cost of producing all residential development projects, including those projects with affordable housing; and the effect of increasing the cost of producing affordable housing would be to make such housing less affordable. In order to not impair the effects of current county programs and policies that encourage the production of affordable housing, the board of supervisors further finds that affordable housing should be protected from the effects of said development impact fees to the extent made possible by this chapter.~~

- d. ~~The county has commissioned a study which documents a program designed to prevent the development impact fees from undermining the county's affordable housing policies and programs and which study quantifies the relationships between the growth in residential development projects in the unincorporated area of the county and the estimated production of affordable housing. The said study is entitled: "Affordable Housing Mitigation." The board of supervisors has reviewed the said study and has concluded that future residential development in the unincorporated area of the county will continue to exacerbate the shortage in affordable housing as set forth above. The said study is incorporated in this chapter by reference.~~
- e. ~~Accordingly, it is appropriate to implement an "in-lieu" fee program so that residential developers will not have an incentive to not include affordable housing in their development projects. [Ord. 2527 §1, 1991].~~

#### **18.07.020 – Definitions**

Words used in this chapter shall have the following meanings:

- f. ~~"Affordable housing" means a residential dwelling unit as described in Section 22.04.090 and Section 23.04.090 of the land use ordinance and coastal zone land use ordinance, Titles 22 and 23 of this code, respectively. Furthermore, affordable units must continue to remain available upon resale or re-lease by complying with these definitions for thirty years following their construction as specified in Titles 22 and 23.~~
- g. ~~"Board of supervisors" means the board of supervisors of the county.~~
- h. ~~"County" means the county of San Luis Obispo, a general law county organized and existing under the Constitution and law of the state of California.~~
- i. ~~"County median income" means the median family income of the county as annually estimated by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937.~~
- j. ~~"Public facilities fees" means any fee imposed under or pursuant to:~~
- ~~(1) County Ordinance No. 2379 Road Improvement Fee; and/or~~
  - ~~(2) County Ordinance No. 2519 Public Facilities Fees (Title 18 of this code).~~
- k. ~~"Residential development project" means residential land divisions pursuant to Title 21 of this code, including parcel maps, tract maps and condominium conversions. [Ord. 2738 §2, 1995; Ord. 2527 §2, 1991].~~

#### **18.07.030 – Affordable Housing In-Lieu Fee**

~~An affordable housing in-lieu fee is hereby established. Said fee is to be imposed as a condition of the approval of any new residential development project within the unincorporated area of the county.~~

- l. ~~Amount of Fee. The affordable housing in-lieu fee for a residential development project shall be three and one-half percent of the public facilities fees imposed on that residential development project except~~

~~that no affordable housing in-lieu fee shall be imposed on that portion of a residential development project attributable to any affordable housing included within the residential development project.~~

- ~~m. Time of Imposition and Payment of Fee. The amount of the affordable housing in-lieu fee for any new residential development project within the unincorporated area of the county shall be determined for, and shall be imposed upon, such new residential development project at the time of the approval of an application for a new residential development project, and payment of the fee shall be a condition of the approval of said new residential development project and be paid prior to recording the final map or parcel map for the said residential development project.~~
- ~~n. Fee Account. An account or fund shall be established which shall receive all affordable housing in-lieu fees paid to the county. This fund may receive moneys from other sources.~~
- ~~o. Use of the Fee. Moneys deposited in the fund shall be used, to the extent that moneys are available in the fund, to pay that part of public facilities fees imposed on any residential development project that is attributable to affordable housing within the project. Moneys in the fund may also be used to cover reasonable administrative expenses.~~
- ~~p. Administration. The fund shall be administered by the director of planning and building of the county who shall have the authority to govern the fund consistent with this chapter, and to prescribe procedures for said purpose, subject to the approval of the board of supervisors.~~
- ~~q. Fee Review. Commencing one year after the effective date of the ordinance codified in this chapter, and annually thereafter, the director of planning and building of the county shall report to the board of supervisors on the status of activities undertaken with the fund. The report shall include a statement of income, expenses, disbursements, and other uses of the fund. The report shall evaluate the relationship between the amount of affordable housing in-lieu fees paid under this chapter and the amount of moneys paid from the fund and recommend adjustments to the affordable housing in-lieu fee to ensure that the objectives of this chapter are met. [Ord. 2737 §3, 1995; Ord. 2527 §3, 1991].~~

SECTION 3. Regarding the Final Environmental Impact Report (FEIR) issued for amendments, the Board of Supervisors hereby certifies that the FEIR has been prepared and completed in compliance with the California Environmental Quality Act, California Public Resources Code Section 21000 et seq. and the Board of Supervisors reviewed and considered the information contained in the FEIR prior to approving the amendments and that the FEIR reflects the lead agency's independent judgment and analysis. Further, the Board of Supervisors hereby adopts the recommended findings of the County Environmental Coordinator which are attached hereto and incorporated herein as though fully set forth.

SECTION 4. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 5: This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of

California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the 9th day of December, 20 08, by the following roll call vote, to wit:

AYES: Supervisors Bruce S. Gibson, K.H. 'Katcho' Achadjian, Jerry Lenthall, and  
Chairperson James R. Patterson

NOES: Supervisor Harry L. Ovitt

ABSENT: None

ABSTAINING: None

/s/ James R. Patterson  
Chairman of the Board of Supervisors,  
County of San Luis Obispo,  
State of California

ATTEST:

JULIE L. RODEWALD  
County Clerk and Ex-Officio Clerk  
of the Board of Supervisors  
County of San Luis Obispo, State of California  
By: /s/ Sandy Currens  
Deputy Clerk  
[SEAL]

ORDINANCE CODE PROVISIONS APPROVED  
AS TO FORM AND CODIFICATION:

WARREN R. JENSEN  
County Counsel

By: \_\_\_\_\_  
Deputy County Counsel

Dated: \_\_\_\_\_